

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

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|-----------------------------|---|---------------------------------|
| Rosanne Edwards Murphy, |) | |
| |) | |
| Plaintiff, |) | Civil Action No.: 2:05-2576-CWH |
| |) | |
| versus |) | |
| |) | |
| Department of Motor Vehicle |) | <u>ORDER</u> |
| |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

On September 6, 2005, the plaintiff, a resident of South Carolina, filed a complaint *pro se* against the South Carolina Department of Motor Vehicles (“DMV”). On September 12, 2005, Magistrate Judge George C. Kosko filed a report and recommended that this action be dismissed for lack of jurisdiction. On October 4, 2005, the plaintiff filed objections to the magistrate judge’s report and recommendation.

The plaintiff claims that she applied for a driver’s license with a new address and that the photos on her driver’s licenses are of other people. The plaintiff seeks justice and compensation for mental harassment. She also requests that the court stop other people with same face from using her identity.

Although the plaintiff’s *pro se* complaint is liberally construed, federal courts are of limited jurisdiction. Gordon v. Leeke, 574 F.2d 1147, 1151 (4th Cir. 1978). The DMV is an agency of the state of South Carolina. S.C. CODE. ANN. 56-1-5(1976). The Eleventh Amendment divests the federal courts of jurisdiction over suits brought against a state or its integral parts. Fed. Maritime Comm’n v. S.C State Ports Auth. 535 U.S. 743 (2002). Therefore,

the South Carolina Department of Motor Vehicles, as a state agency, is entitled to summary dismissal because of Eleventh Amendment immunity. Under Pennhurst State School and Hosp. v. Halderman, 465 U.S. 89, 99 n.9 (1984), a state must expressly consent to suit in federal district court. “A state may . . . waive its Eleventh Amendment immunity from being sued in federal court wither legislatively . . . or by an explicit waiver in the lawsuit in which it is a named defendant . . . provided that the waiver is authorized by state law.” Higgins v. Miss., 217 F.3d 951 (7th Cir. 2000). The state of South Carolina has not consented to suit in a federal court. S.C. Code Ann. §15-78-20(e).

Accordingly, the Court adopts Magistrate Judge Kosko’s report and recommendation and dismisses this action without prejudice and without service of process for lack of jurisdiction.

AND IT IS SO ORDERED.



C. WESTON HOUCK
UNITED STATES DISTRICT JUDGE

Charleston, South Carolina
October 27, 2005